

**Senate Concurrent Resolution**

**No. 42**

**Introduced by Senator Campbell**

April 14, 2005

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Senate Concurrent Resolution No. 42—Relative to the California Law Revision Commission.

LEGISLATIVE COUNSEL'S DIGEST

SCR 42, as amended, Campbell. California Law Revision Commission: studies.

Under existing law, the California Law Revision Commission is required to study, and is limited to studying, those topics approved for its study by concurrent resolution of the Legislature.

~~This measure would authorize as a new topic for study by the commission a comprehensive review of provisions of the Probate Code relating to no contest clauses, with the objective of determining whether those provisions should be repealed and alternative provisions substituted, as specified~~ *require the commission, in consultation with the Senate and Assembly Judiciary Committees, to conduct a comprehensive study and prepare a report concerning the advantages and disadvantages of the provisions of the Probate Code relating to no contest clauses. The bill would also require the commission to review the various approaches in this area of law taken by other states and proposed in the Uniform Probate Code and present an evaluation to the Legislature.*

Fiscal committee: yes.

- 1 WHEREAS, The California Law Revision Commission is
- 2 authorized to study topics approved for study by concurrent
- 3 resolution of the Legislature; now, therefore, be it

1     *Resolved by the Senate of the State of California, the Assembly*  
2 *thereof concurring, That the Legislature approves for study by*  
3 *the California Law Revision Commission the topic listed below:*

4     ~~(1) A comprehensive review of the provisions of the Probate~~  
5 ~~Code relating to no contest clauses, with the objective of~~  
6 ~~determining whether those provisions should be repealed and~~  
7 ~~alternative provisions awarding attorney's fees and costs~~  
8 ~~substituted, if certain conditions are satisfied; and be it further~~

9     *Resolved, That the Secretary of the Senate transmit a copy of*  
10 *this resolution to the California Law Revision Commission; the*  
11 *California Law Revision Commission shall, in consultation with*  
12 *the Senate and Assembly Judiciary Committees, do the following:*

13     ~~(1) Conduct a comprehensive study, and prepare a report,~~  
14 ~~concerning the apparent advantages and disadvantages of the~~  
15 ~~state's no contest clause provisions, set forth in Part 3~~  
16 ~~(commencing with Section 21300) of Division 11 of the Probate~~  
17 ~~Code.~~

18     ~~(2) Review the various approaches in this area of the law~~  
19 ~~taken by other states and proposed in the Uniform Probate Code,~~  
20 ~~and present to the Legislature an evaluation of the broad range~~  
21 ~~of options, including possible modification or repeal of existing~~  
22 ~~statutes, attorney fee shifting, and other reform proposals, as~~  
23 ~~well as the potential benefits of maintaining current law.~~